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Title 11 DEPARTMENT OF TRANSPORTATION Subtitle 05 MARYLAND PORT ADMINISTRATION

Notice of Proposed Action

[14-284-P]

The Administrator of the Maryland Port Administration proposes to amend:

- (1) Regulation .02 under **COMAR 11.05.02 Hazardous Materials**;
- (2) Regulations .02 — .05, .07 — .09, .12, and .14 under **COMAR 11.05.03 Vehicle Access, Parking, and Operation on Maryland Port Administration Property**; and
- (3) Regulation .03 under **COMAR 11.05.07 Maryland Port Terminals, Properties, and Vessels Security**.

Statement of Purpose

The purpose of this action is to revise regulations applicable to the permitting of motor vehicles, clarify the circumstances under which the Maryland Port Administration (MPA) may bar individuals from entering MPA facilities, and clarify the definition of the law enforcement agencies authorized to operate on MPA facilities and property. The revisions make these regulations consistent with current security protocols and practices and address recurring issues such as security violations justifying revocation of access privileges.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Hardwick, Legislative Policy Analyst, Maryland Port Administration, 401 E Pratt Street, 20th Floor, Baltimore MD 21202, or call 410-385-4791, or email to mhardwick@marylandports.com, or fax to 410-333-4225. Comments will be accepted through November 3, 2014. A public hearing has not been scheduled.

11.05.02 Hazardous Materials

Authority: Transportation Article, §§6-201, 6-202, 6-206, and 6-602, Annotated Code of Maryland

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1)—(13) (text unchanged)
 - (14) *“MdTA Police” has the meaning stated in COMAR 11.05.03.02.*
 - [(14)] (15) — [(20)] (21) (text unchanged)

11.05.03 Vehicle Access, Parking, and Operation on Maryland Port Administration Property

Authority: Transportation Article, §§6-201 and 6-211, Annotated Code of Maryland

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) (text unchanged)

(2) “Annual decal” means the individually numbered and adhesive backed decal that is issued annually and applied to the vehicle windshield by the [MdTA Police] *MPA Office of Security or designee*.

(3) “Berth permit” means a hang tag issued by the *MPA Office of Security or designee* that permits parking upon a berth.

[(3)] (4) — [(4)] (5) (text unchanged)

(6) “Conviction” means a plea of guilty, a finding of guilty, a plea of *nolo contendere*, or acceptance of probation before judgment.

[(5)] (7) “Decal” means the decal that is assigned and applied to the motor vehicle by the [MdTA Police] *MPA Office of Security or designee*.

(8) “Law Enforcement Agency” has the meaning stated in Public Safety Article, §3-201(d), Annotated Code of Maryland.

(9) “Law Enforcement Permit” means a hang tag issued by the *MPA Office of Security or designee* to law enforcement personnel.

[(6)] (10) [MdTA Police.

(a) “MdTA Police” means Maryland Transportation Authority personnel designated as members of the Police Force under Transportation Article, §4-208, Annotated Code of Maryland, or any other police officers as defined by Public Safety Article, §3-201(e), Annotated Code of Maryland, and who are authorized to perform law enforcement duties on MPA property.

[(b) “MdTA Police” includes other duly constituted police authority who are authorized to perform law enforcement duties on MPA property.]

(11) “MdTA Police Cadet” means an employee of the Maryland Transportation Authority Police or any other law enforcement agency that is authorized to enforce parking regulations on MPA property.

(12) “MdTA Police Port Detachment” means personnel of the Maryland Transportation Authority Police or any other law enforcement agency that are specifically assigned to MPA property or Port facilities and that are authorized to enforce criminal laws and the regulations in this title.

[(7)] (13) — [(9)] (15) (text unchanged)

[(10)] (16) “Permit” means:

(a) The annual [or temporary] decal that is affixed to the vehicle windshield by [an MdTA Police employee] *the MPA Office of Security or designee*; [or]

(b) The visitor vehicle or cargo gate pass issued by security personnel at the facility access control point[.]; or

(c) *The 14-day pass issued by the MPA Office of Security or designee.*

[(11)] (17) — [(12)] (18) (text unchanged)

[(13) “Temporary vehicle decal” means the document issued at the access control point by security personnel for short-term (1 week-3 months) access to a facility for a personally owned vehicle.]

[(14)] (19) — [(16)] (21) (text unchanged)

.03 Motor Vehicle Port Admission Permit.

A. Permit Requirements.

(1) A person may not operate or bring a motor vehicle on MPA property unless the motor vehicle has been issued an Annual [or Temporary] Decal[,], or a Visitor, 14-Day, or Cargo Gate Pass in accordance with this chapter.

(2) *Failure to display the decal or pass properly may result in the denial of access to MPA property.*

(3) *Access to MPA property is subject to limitations and time frames specified by the MPA.*

[(2)] (4) (text unchanged)

B. Types of Permits.

(1) Annual Decal. Motor vehicles regularly operated on MPA property or requiring regular visits to the property, shall display evidence of having obtained an Annual Decal. The decal shall be applied to the outside lower portion of the driver side of the vehicle’s front windshield with the expiration date clearly displayed. [Failure to display the decal properly may result in the denial of access to MPA property.]

(2) [Temporary Decal. Motor vehicles operated on MPA property on a temporary basis (1 week—3 months) shall display evidence of having obtained a Temporary Decal. The decal shall be applied to the outside lower portion of the driver side of the vehicle’s front windshield with the expiration date clearly displayed. Failure to display the decal properly may result in the denial of access to MPA property] *14-Day Pass. Motor vehicles operated by persons on MPA property on a daily basis for 7 days or longer, shall display evidence of having obtained a 14-Day Pass. Issuance of a 14-Day Pass requires prior notification of the MPA Office of Security or designee. The pass shall be placed on the dashboard in the driver’s front left windshield area of the vehicle so as to be visible from the outside.*

(3) Visitor Pass. Motor vehicles, owned or operated by persons on MPA property on a daily basis for a length of time less than [1 week] *7 days*, shall display evidence of having obtained a Visitor Pass. Issuance of a [pass] *Visitor Pass* requires prior notification to the MPA via its electronic visitor database. [Failure to display the pass properly may result in the denial of access to MPA property. Access to facilities is subject to limitations and time frames specified by MPA. Evidence of the] *The pass shall be[.]*

[(a) Placed] *placed* on the dashboard in the driver’s front left windshield area of the vehicle so as to be visible from the outside[.];

(b) Valid only for the date of issue; and

(c) Returned on exiting the facility].

(4) Cargo Gate Pass. A motor vehicle which is designed to carry cargo or is designated as cargo is required to obtain a Cargo Gate Pass at one of the truck access control points before reporting directly to the marine terminal operator or cargo processor within MPA property that is handling the cargo. The cargo shall be registered via MPA’s electronic database, [eMode] *eModal*, before entering the facility.

(5) (text unchanged)

C. Application Procedures.

(1) Requirements for an Annual [or Temporary] Decal. A person desiring an annual [or temporary] decal under this regulation shall:

(a) (text unchanged)

(b) Submit a completed permit application to the [MdTA Police] *MPA Office of Security or designee* on the form provided;

(c)—(d) (text unchanged)

(2) Requirements for a Visitor Vehicle Pass. A Visitor Vehicle Pass shall be obtained at the access control point of the facility to which access is desired. All visitors shall have received prior authorization *to enter the facility* from the MPA, the MdTA Police, or a tenant or other user of the facility. The person who authorized the visitor's entry to the facility shall provide all required identification information to the MPA in advance through MPA's electronic visitor database.

(3) Requirements for a 14-Day Pass. A person desiring a 14-Day Pass under this regulation shall:

(a) Provide to the MPA Office of Security or designee evidence of hardship or exigent circumstances justifying the person's failure to obtain an annual or temporary decal; and

(b) Receive prior authorization from the MPA, the MdTA Police, or a tenant or other user of the Port facility to be on the facility for the requested period.

[(3)] (4) (text unchanged)

D. Decision on Application for Annual Decals.

(1) (text unchanged)

(2) If an application is denied, the applicant may confer with the [MdTA Police tour supervisor] *MPA Director of Security* as to the reason for the denial.

(3) If the [MdTA Police tour supervisor] *MPA Director of Security* concurs in the denial, the applicant may appeal this decision to the [MdTA Port Detachment Commander] *MPA Deputy Executive Director*.

(4) (text unchanged)

E. Display of Decals and Passes.

(1) Annual Decals. Upon approval of an application for an Annual Decal, the [MdTA Police] *MPA Office of Security or designee* shall issue an identifying decal. This decal signifies to the MdTA Police and the MPA that an application is on file for the vehicle which has met all the requirements of this chapter. The decal, upon issue, shall immediately be applied to the vehicle windshield by [an MdTA police employee] *the MPA Office of Security or designee* and is the only evidence of application approval and is valid until termination.

(2) [Temporary Decals. Upon approval of an application for a Temporary Decal, the MdTA Police shall issue a Temporary Decal to the applicant. This decal, upon issue, shall immediately be applied to the vehicle by an MdTA police employee. This decal is the only evidence of application approval and is valid until termination] *14-Day Passes. Upon approval of an application for a 14-Day Pass, the MPA Office of Security or designee shall issue a 14-Day Pass to the applicant. This pass, upon issue, shall be prominently displayed within the front left windshield area of the vehicle and in full view from the exterior while the motor vehicle is on MPA property.*

(3)—(4) (text unchanged)

F. Non-Transferability of Decals [or] and Passes. An Annual [or Temporary] Decal[,], or Visitor Vehicle, 14-Day, or Cargo Gate Pass may not be transferred to or displayed on any vehicle other than the vehicle to which the decal or pass has been issued. *A pass may not be transferred to or displayed by any person other than the person to whom issued.*

G. Termination of Decals and Passes.

(1) Annual Decals.

(a) (text unchanged)

(b) Annual Decal termination occurs on the earliest of:

(i)—(ii) (text unchanged)

(iii) The date the [MdTA Police] *MPA Office of Security or designee* revokes or suspends the permit.

(c) Unless Annual Validation Tabs have been issued and affixed to the Annual Decal by the [MdTA Police] *MPA Office of Security or designee*, the Annual Decal expires at midnight on June 30 of each year.

[(2)] Temporary Decals.

(a) Upon termination, the Temporary Decal shall be returned to the MdTA Police.

(b) The Temporary Decal expires at the end of the calendar date designated as the termination date on the decal.

(c) Earlier termination, however, occurs on the earliest occurrence of any of the following events:

(i) The date the need for facility access stated in support of the original application no longer exists;

(ii) The date the decal is voluntarily surrendered by the owner or operator of the motor vehicle;

(iii) The date the MdTA Police revokes or suspends the decal in accordance with the provisions of this chapter.]

[(3)] (2) Visitor Vehicles Passes.

(a) (text unchanged)

(b) The Visitor Vehicle Pass automatically expires at the end of the calendar date indicated, upon its voluntary surrender, upon departure of the motor vehicle from the MPA facility at which the permit was issued, or upon revocation by the [MdTA Police or MPA Security] *MPA Office of Security or designee* in accordance with the provisions in this chapter.

(3) 14-Day Passes.

(a) *The 14-Day Pass shall be returned to the MPA Office of Security or designee upon expiration of the pass.*

(b) *The 14-Day Pass automatically expires at the end of the calendar date indicated, upon its voluntary surrender, when the need for which the permit was issued no longer exists, or upon revocation by the MPA Office of Security or designee in accordance with the provisions in this chapter.*

H. Notice of Changes in Conditions.

(1) Changes in the information given in the original application for the decal or pass shall be reported by the applicant, or the decal or pass holder authorizing entry for a visitor, to the MPA Office of Security [and to the MdTA Police Port Detachment] *or designee* immediately after the change.

(2) (text unchanged)

I. (text unchanged)

.04 Motor Vehicle Operations.

A. Maryland Vehicle Law.

(1) (text unchanged)

(2) Interpretation.

(a)—(b) (text unchanged)

(c) The provisions of the Maryland Vehicle Law as incorporated in these regulations shall be interpreted as applying to the MPA in the following manner:

(i)—(ii) (text unchanged)

(iii) [“Police” shall be interpreted as referring to the MdTA Police] *“MdTA Police” has the meaning stated in Regulation .02 of this chapter.*

(d) (text unchanged)

B—D. (text unchanged)

E. Facility Speed Limits.

(1) The maximum allowable speed on MPA [property] roadways is 30 miles per hour except as otherwise posted.

(2) *The maximum allowable speed at berth, shed, and cargo areas, or at any other area not designated as a roadway, is 10 miles per hour except as otherwise posted.*

(3) *The maximum allowable speed on any non-posted MPA roadway is 15 miles per hour.*

[(2)] (4) (text unchanged)

F.—G. (text unchanged)

H. Restrictions on Special Vehicles.

(1) *The operation of any two-wheeled motor vehicle or self-propelled vehicle on MPA property shall be approved in writing by the MPA Office of Security or designee.*

(2) *Unlicensed motor vehicles approved for use on MPA property are prohibited from using public roadways unless authorized by the Maryland Motor Vehicle Administration.*

(3) *Without advance written approval, bicycles and other self-propelled vehicles are prohibited on MPA terminals.*

.05 Parking on MPA Property.

A. (text unchanged)

B. Permitted Areas. Motor vehicles displaying valid port admission decals or passes may be parked only in those parking areas designated by the MPA and MdTA Police. A motor vehicle parked in an area not designated for parking *or failing to display a proper permit* is in violation of this chapter.

C. Restrictions.

(1) Except when permitted by official signs, or when permitted by a member of the MdTA Police or required by a traffic control device, motor vehicles may not be parked, be permitted to stand, or be left unattended:

(a)—(j) (text unchanged)

(k) In such a way as to cause or be likely to cause a hazard to the health or safety of individuals on MPA property; [or]

(l) In any designated handicapped parking space without displaying a handicapped registration plate or placard; *or*

(m) *In any other area where parking or leaving a vehicle standing or unattended is not specifically authorized.*

(2)—(3) (text unchanged)

.07 Identification.

An individual on *or entering* MPA property shall provide proof of identity at the request of an MdTA Police officer, and shall provide the:

A. *Individual's driver's license and, at the discretion of the MdTA Police Officer, other official photo identification such as Transportation Worker Identification Credential (TWIC) or MPA Identification Card;*

[B.] C. — [C.] D. (text unchanged)

.08 Search of Motor Vehicles.

All motor vehicles, *including the contents thereof*, which enter, use, or are operated on MPA property are subject to reasonable search by an authorized member of the MdTA Police in accordance with the Constitution [and], laws, and regulations of the United States and the State of Maryland.

.09 Removal of Motor Vehicles.

A. (text unchanged)

B. The MdTA Police may remove a motor vehicle from a facility or to another part of the property if the MPA has jurisdiction under Regulation .05A of this chapter and the vehicle is:

(1) *Unattended near an occupied building or cargo area, within 10 feet of a perimeter fence, or in another area where the vehicle causes or is likely to cause a safety or security risk;*

[(2)] (3) — [(5)] (6) (text unchanged)

.12 Obligations of Employers.

Any employer conducting business on MPA property who knowingly permits a motor vehicle owned by him or under his control to be operated by an employee who does not have a valid driver's license is *in* violation of these regulations. However, an employer may not be issued a citation for permitting an unlicensed driver to drive cargo-handling equipment which does not require the operator to possess a valid license.

.14 Penalties.

A. (text unchanged)

B. Parking Offenses.

(1) (text unchanged)

(2) Citations for violations of parking regulations are answerable as follows:

(a) **Uncontested Cases.** If the person charged in a citation elects not to contest the violation cited, the person may close all proceedings by mailing a certified check or money order, payable to the Maryland Port Administration in the amount stated on the citation, to the *MPA Office of the Comptroller*, [Maritime Center at Point Breeze, 2310 Broening Highway, Baltimore, Maryland 21224] *The World Trade Center, 401 East Pratt Street, Baltimore, Maryland 21202*. Payment of the fine in an uncontested case is considered a conviction.

(b) Contested Cases.

(i) A person receiving a citation for a parking violation may elect to stand trial for the offense charged by notifying by mail the *MPA Office of the Comptroller*, [Maritime Center at Point Breeze, 2310 Broening Highway, Baltimore, Maryland 21224] *The World Trade Center, 401 East Pratt Street, Baltimore, Maryland 21202*, that the person intends to stand trial.

(ii)—(v) (text unchanged)

(c) (text unchanged)

C. (text unchanged)

D. Revocation or Refusal of Permit Privileges.

(1) Permit privileges may be revoked or refused by the MPA Office of Security when:

(a) *In the sole discretion of the MPA Office of Security, the revocation or refusal is warranted in the interest of the safety or security of a port facility, or of persons or property thereon, or any vessel secured thereto;*

[(a)] (b) The owner or operator of any motor vehicle issued a permit is convicted of two [four] cited violations of these regulations within a 3-year period;

(c) The owner or operator of any motor vehicle issued a permit is charged with any of the following violations:

(i) *A criminal violation involving the use or possession of a weapon;*

(ii) *A criminal violation involving theft;*

(iii) *Falsification of any information on the application for an identification badge or vehicle permit, or both;*

(iv) *Misuse of another person's identification badge or vehicle permit, including but not limited to attempting to gain access to MPA property by using an identification badge or vehicle permit issued to another person; or*

[(b)] (d) The owner or operator of any motor vehicle issued a permit is convicted of any of the following violations:

(i)—(ix) (text unchanged)

(x) *Failing to respond to citations issued under these regulations; or*

(xi) *Misuse of another person's identification badge or vehicle permit, including but not limited to attempting to gain access to MPA property by using an identification badge or vehicle permit issued to another person.*

(2) Within [20] *15 calendar days* after receipt of notification [and] *of* revocation or refusal, a person may petition the [MdTA Police] *MPA Office of Security* for reconsideration of the revocation or refusal. Unless substantial hardship or special mitigation is shown, the permit shall be revoked or refused, and for a period of 1 year no further application for a permit made by that person, as owner or operator of any motor vehicle, will be favorably acted upon. The official records of the MVA, [and] the State of Maryland Criminal Records Central Repository, *the State of Maryland District and Circuit Courts, or the United States District Courts* will suffice as evidence of convictions *or violations under this chapter*. This section does not bar the owners or operators of the vehicles for which the permits have been revoked or refused from entering the property of the MPA.

E.—F. (text unchanged)

11.05.07 Maryland Port Terminals, Properties, and Vessels Security

Authority: Transportation Article, §6-204, Annotated Code of Maryland

.03 Security.

A. Security-Based Entry and Exclusion.

(1) — (2) (text unchanged)

(3) *The MPA may revoke the authorization of any user to enter any premises on a port facility, including that leased to the user, if the person is charged with:*

(a) *A criminal violation involving the use or possession of a weapon;*

(b) *A criminal violation involving theft;*

(c) *Falsification of any information on the application for an identification badge or vehicle permit, or both; or*

(d) *Misuse of another person's identification card or vehicle permit, including but not limited to attempting to gain access to MPA property by using an identification card or vehicle permit issued to another person.*

(4) The revocation will remain in effect:

(a) *From the date charges are filed until the charges are adjudicated;*

(b) For a period of 1 year from the date of a guilty plea, judgment of guilt, or acceptance of probation before judgment;
or

(c) Permanently from the date of a guilty plea, judgment of guilt, or acceptance of probation before judgment for a second or subsequent offense under these regulations.

B. — C. (text unchanged)

JAMES J. WHITE
Executive Director